

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

In re:

MERCY HOSPITAL, IOWA CITY, IOWA, *et al.*

Debtors.

Chapter 11

Case No. 23-00623

Jointly Administered

Objection Deadline: 2/21/2024
at 4:00 pm *prevailing* CST

**SUMMARY OF FOURTH MONTHLY APPLICATION FOR COMPENSATION AND
EXPENSE REIMBURSEMENT FOR PATIENT CARE OMBUDSMAN
PERIOD December 1, 2023 – January 31, 2024**

Name of Applicant: Susan N. Goodman

Authorized to provide professional services: as *Patient Care Ombudsman*

Date of Retention: August 10, 2023

Period of Application: 12/1/2023 through 1/31/2024

Amount of Compensation Sought: 80% of \$9,401.00 or \$7,520.80

Amount of Expense Reimbursement: \$640.64

Application Type: Fourth Monthly

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In re:

MERCY HOSPITAL, IOWA CITY, IOWA, et al.,

Debtors.

Chapter 11

Case No. 23-00623

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**FOURTH MONTHLY APPLICATION FOR COMPENSATION AND
EXPENSE REIMBURSEMENT FOR PATIENT CARE OMBUDSMAN
PERIOD December 1, 2023 – January 31, 2024**

Susan N. Goodman, as the duly appointed Patient Care Ombudsman (“**PCO**” or “**Applicant**”) comes now and submits this *Fourth Monthly Application for Compensation and Expense Reimbursement for Patient Care Ombudsman* (the “**Application**”) for the period from December 1, 2023, through January 31, 2024 (the “**Application Period**”). This Application is supported by the following:

JURISDICTION AND VENUE

1. This court has jurisdiction of this Chapter 11 proceeding pursuant to 28 U.S.C. §§ 157 and 1334. This matter constitutes a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

2. Venue is proper before this court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory predicates for the relief requested in this Application are Bankruptcy Rule 2016, United States Bankruptcy Code (the “**Bankruptcy Code**”) §§ 330-331, and the court’s *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals* [Docket No. 244] (the “**Interim Compensation Order**”).

BACKGROUND

4. On August 7, 2023 (the “**Petition Date**”) the Debtors filed the petitions for relief under Chapter 11 of the Bankruptcy Code. Debtors continue to operate its business and manage its properties as debtors and debtors-in-possession pursuant to the Bankruptcy Code sections 1107(a) and 1108. No trustee or examiner has been appointed.

5. On August 10, 2023, this court issued its *Order Approving Appointment of Susan N. Goodman as Patient Care Ombudsman* (the “**Appointment Order**”), filed at Docket No. 59 in the lead, jointly administered case docket.

6. Relative to this Application Period, PCO continued to remotely engage with Debtor staff and leaders. She also engaged in a third site visit and filed *Patient Care Ombudsman’s Third Interim Report* (the “**Third Report**”) at Docket No. 640.

7. In addition to continued remote engagement with Debtor team members, PCO monitored and reviewed docket pleadings at a level consistent with her role and selectively attended hearings with an eye toward balancing the importance of understanding and tracking important case dynamics/milestones with the importance of fiscal stewardship.

THE INTERIM COMPENSATION ORDER

8. On September 14, 2023, the court entered the Interim Compensation Order which established the procedures for case professionals to seek interim compensation and reimbursement of expenses. Specifically, under the Interim Compensation Order, case professionals may file and serve Monthly Fee Applications on or after the fifteenth (15th) day of each month following the month for which compensation was sought. After the passing of a fourteen-day objection period, the Debtors are authorized to pay the requesting professional eighty percent (80%) of the requested fees and one hundred (100%) of reasonable, necessary, and actual expenses that are not subject to an objection.

COMPENSATION REQUESTED

9. By this Application, Applicant seeks allowance of professional fees in the amount of \$9,401.00 and expense reimbursement in the amount of \$640.64, collectively totaling \$10,041.64 for the Application Period. With the 20% fee holdback as directed by the Interim Compensation Order, the requested Award totals \$8,161.44 (80% fees in the amount of \$7,520.80 and 100% of expenses). A copy of the Applicant’s billing summary and detailed time records are attached herein to support the Award request.

10. PCO spent 29.6 hours, billing for 23.8 hours. Roughly seventy-five percent (75%) or a total of 22.2 hours of time was spent in activities that classify as general case administration. All 5.8 hours of billable, half-rate non-working travel were written off given the already heightened sensitivity of operational team members toward consultant and executive fees. A total of 1.6 hours were spent on fee associated activities. The time spent in preparation of this Application will be included in PCO's final fee application. Applicant's expenses are properly categorized as follows:

Expense Category	Amount
Airfare	\$89.20
Hotel	\$267.34
Car Rental	\$168.10
Meals	\$74.00
Parking Fees/Tolls	\$42.00
TOTAL	\$640.64

BASIS FOR RELIEF

11. United States Bankruptcy Code § 330(a)(3)-(4)(A) provides an analytical framework to evaluate the reasonableness of professional fees and expenses. The court considers the nature, extent, and value of the services rendered relative to: (1) the time spent, (2) the rates charged, (3) whether the services were necessary or provided a benefit to the estate, (4) the time spent relative to the complexity and nature of the task addressed, (5) whether the professional demonstrated skill and expertise, (6) whether the professional fee is comparatively reasonable, and (7) whether the fee avoids unnecessary duplication and/or waste.

12. If the professional fee requested fails this analysis, the court may reduce the amount of compensation awarded.

13. The Eighth Circuit has utilized the "lodestar" approach to determine if compensation is reasonable, a calculation arrived through multiplying "the reasonable hourly rate by the reasonable number of hours required." *In re Next Generation Media, Inc.*, 524 B.R. 824, 827, 60 Bankr. Ct. Dec. 153 (Bankr. D. Minn. 2015) *citing Bachman v. Laughlin (In re McKeeman)*, 236 B.R. 667, 671 (B.A.P. 8th Cir. 1999). *See also, In re Pothoven*, 84 B.R. 579 (Bankr. S. D. Iowa 1988).

14. PCO's hourly rate of \$395.00 per hour compares favorably to other professionals in this field, particularly so when considering that PCO functions independently because she is a registered nurse, has health care operations experience, and is a health law attorney –providing significant economy to the Estate as a single professional who can evaluate the Debtors' patient care operation and draft/file pleadings without engagement of local counsel. The PCO provided a vital and necessary service to the Debtors with effective and ongoing oversight of the standard of patient care provided by the Debtors at minimal cost to the Estates. Accordingly, PCO requests this court enter an order allowing and authorizing payment of the interim monthly Award of \$8,161.44.

15. PCO has not shared or agreed to share compensation or reimbursement awarded in this case with any other person or entity.

16. No agreement or understanding exists between PCO and any other person for division of compensation.

17. PCO has not entered into any agreement prohibited by U.S.C. Title 18 §155.

18. PCO's compensation and expense reimbursement requested are billed at rates, in accordance with practices no less favorable than those customarily employed by PCO and generally accepted by PCO's clients.

19. Pursuant to the Interim Compensation Order, any party objecting to the requested Award must file a written objection with the court on or before the 14-day objection period deadline, serving the objection on the Applicant and the following Fee Notice Parties:

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<p>Nyemaster Goode PC Roy Leaf 625 First Street SE, Ste 400 Cedar Rapids, IA 52401 rleaf@nyemaster.com <i>Debtors counsel</i></p> <p>Mercy Hospital, Iowa City Attn: Mark E. Toney 500 E Market St Iowa City, IA 52245 noticing@mercyic.org</p>	<p>McDermott Will & Emery LLP Felicia Gerber Perlman Daniel M. Simon Emily C Keil Jack G. Haake (Dallas office) 444 West Lake Street, Ste 4000 Chicago, IL 60606 fperlman@mwe.com dsimon@mwe.com ekeil@mwe.com jhaake@mwe.com <i>Co-counsel to Debtors</i></p>
<p>Cutler Law Firm Robert Gainer 1307 50th Street West Des Moines, IA 50266 rgainer@cutlerfirm.com</p> <p><i>Attorneys for The Official Committee of Unsecured Creditors of Mercy Hospital, Iowa City, Iowa, et al.</i></p>	<p>Sills, Cummins & Gross PC Andrew H. Sherman Boris I Mankovetskiy One Riverfront Plaza Newark, NJ 07102 asherman@sillscummis.com bmankovetskiy@sillscummis.com</p> <p><i>Attorneys for The Official Committee of Unsecured Creditors of Mercy Hospital, Iowa City, Iowa, et al.</i></p>
<p>Office of the United States Trustee Janet G Reasoner 111 7th Ave SE, Box 17 Cedar Rapids, IA 52401 janet.g.reasoner@usdoj.gov</p> <p><i>Attorneys for the United States Trustees Office</i></p>	<p>Whitfield & Eddy PLC Peter J Chalik 699 Walnut Street, Ste 2000 Des Moines, IA 50309 chalik@whitfieldlaw.com</p> <p><i>Attorneys for Preston Hollow Community Capital Inc. as Bondholder Representative for Computershare Trust Company</i></p>
<p>Mintz Levin Ferris Glovsky & Popeo PC William W Kannel One Financial Center Boston, MA 02111 BKannel@mintz.com</p> <p><i>Attorneys for Preston Hollow Community Capital Inc. as Bondholder Representative for Computershare Trust Company</i></p>	<p>Mintz Levin Ferris Glovsky & Popeo PC Nathan F Coco Megan M Preusker 919 Third Ave New York, NY 10022 nfcoco@mintz.com krwalsh@mintz.com</p> <p><i>Attorneys for Preston Hollow Community Capital Inc. as Bondholder Representative for Computershare Trust Company</i></p>

CONCLUSION

WHEREFORE, Applicant respectfully requests that this court enter an order:

- a. awarding PCO allowance of 80% of the fees for the Application Period in the amount of \$7,520.80 and awarding expense reimbursement in the amount of \$640.64 for a total award of \$8,161.44 for services rendered during the Application Period;

- b. authorizing and directing Debtors to pay the Award amount for PCO services rendered and expenses incurred during the Application Period; and,
- c. granting such other relief as is just and proper.

DATED: February 7, 2024.

By: /s/Susan N. Goodman, RN JD
Pivot Health Law, LLC
Az Bar No. 019483; Tx Bar No. 24117585
P.O. Box 69734
Oro Valley, AZ 85737
Msg: 520.744.7061 | Fax: 520.575.4075
sgoodman@pivothealthaz.com
Patient Care Ombudsman

Exhibit A

CERTIFICATE OF SERVICE

I, Susan N. Goodman, hereby certify that on February 7, 2024, a true and correct copy of the *Fourth Monthly Application for Compensation and Reimbursement of Expenses for Patient Care Ombudsman – Period December 1, 2023, through January 31, 2024*, was filed with the Clerk of Court using Northern District of Iowa CM/ECF and the document was served electronically through the CM/ECF system to parties of this case.

DATED: February 7, 2024.

By: /s/Susan N. Goodman, RN JD
Pivot Health Law, LLC
Az Bar No. 019483; Tx Bar No. 24117585
P.O. Box 69734
Oro Valley, AZ 85737
Msg: 520.744.7061 | Fax: 520.575.4075
sgoodman@pivothealthaz.com
Patient Care Ombudsman



EXHIBIT B
Fee Statement Summary

Case Name: Mercy Hospital, Iowa City, IA

Case No: ND IA 23-00623-JA

12/01/2023 - 1/31/2024

Cumulative Totals to Date

FEES BILLED	COSTS BILLED	HOLDBACK	FEES PAID	COSTS PAID
\$50,955.00	\$5,942.63	\$10,191.00	\$24,837.60	\$2,928.18

Date:	7-Feb-24	Objection Deadline:	21-Feb-24
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MO/YR	PROFESSIONAL	RATE/HR	HOURS BILLED	TOTAL	HOLDBACK	AMT DUE
Dec-23	SUSAN N. GOODMAN	\$395.00	3.9	\$1,540.50	\$308.10	\$1,232.40
Jan-24	SUSAN N. GOODMAN	\$395.00	19.9	\$7,860.50	\$1,572.10	\$6,288.40
	TOTAL FEES			\$9,401.00	\$1,880.20	\$7,520.80
	TOTAL COSTS			\$640.64	N/A	\$640.64
	AMOUNT DUE			\$10,041.64		\$8,161.44

**Pivot Health Law, LLC**

P.O. Box 69734
Oro Valley, AZ 85737

Exhibit C**Invoice**

Invoice #: 1300
Invoice Date: 1/13/2024

Bill To:

Mercy Hospital, Iowa City, Iowa
ND IA Case No. 23-00623 (JA)
File #15224

Period: December 1-31, 2023

Date	Description	Hours/Qty	Rate	Amount
12/3/2023	Exhib B preparation Nov 2023	0.3	395.00	118.50
12/5/2023	TXT update DON w/ follow up call (.3); docket monitoring and review DE 553-554 (.1)	0.4	395.00	158.00
12/6/2023	docket monitoring and pleading review relative to role - DE 559 obj bondholder re exclusivity extension (.1);	0.1	395.00	39.50
12/7/2023	call debtor counsel re EHR down time (.3); TXT ED Leadership; chief clinical; follow up debtor counsel txt (.1)	0.4	395.00	158.00
12/8/2023	follow up chief clinical re EHR down time	0.2	395.00	79.00
12/18/2023	Update call with CRO (.5); docket monitoring, update re hearing change (.1);	0.6	395.00	237.00
12/18/2023	Update request to DON (.1)	0.1	395.00	39.50
12/19/2023	Call fr nurse mgr re staffing concerns (.2); f/u call CRO (.1); f/u call with DON and loop back CRO (.3)	0.6	395.00	237.00
12/28/2023	Call fr clinical manager re update staffing and other transition concerns (.5); update call with CRO re same (.3);	0.8	395.00	316.00
12/29/2023	docket monitoring, pleading review, and document updates re notice - DE 609 NOA Stryker (.1); prepare and file 2015.1 pleading (.3)	0.4	395.00	158.00

Total \$1,540.50

Payments/Credits \$0.00

Balance Due \$1,540.50


Pivot Health Law, LLC

 P.O. Box 69734
 Oro Valley, AZ 85737

Invoice
Invoice #: 1305
Invoice Date: 2/6/2024

Bill To:

 Mercy Hospital, Iowa City, Iowa
 ND IA Case No. 23-00623 (JA)
 File #15224

Period: January 1 - 31, 2024

Date	Description	Hours/Qty	Rate	Amount
1/3/2024	1/2 rate NW travel for SV #3: TUS - PHX (2.0); PHX-CID (3.0); CID to IA City .6 = 5.6/2 = 2.7	2.7	0.00	0.00
1/3/2024	check in calls in advance site visit: CRO (.2); VP Nsg (.2); 4C unit mgr (.1)	0.5	395.00	197.50
1/3/2024	update call with Debtor counsel	0.2	395.00	79.00
1/4/2024	SV #3/Day 1: HomeHealth (1.0); Surg/Pulm clinic mgr (.5); Clinic Dir (1.5); ED Dir (.4); HR transition for U (.5); CEO (.2); CRO (.5); VP Clin (.2); Materials (.3); Pharmacy (.4); Quality (.5); OR (.5); 3W (.4); Tele (.6); CT (.2)	7.7	395.00	3,041.50
1/5/2024	SV #3/Day 2: staffing 4C and 3W staff check in (.5); HIM (.3); ICU (.7); HR (.3); Dietary (.3); Women's Ctr (.3); Volunteers (.4); Clinic Ldship CA Ctr (.5); Day Surg (.5); OR/PACU (.3)	4.1	395.00	1,619.50
1/5/2024	follow up call CMO	0.4	395.00	158.00
1/5/2024	1/2 NW Travel: IA City - CID (.6); CID - PHX (3.0); PHX-TUS (2.0); TUS - HO (.6) = 6.2/2 = 3.1	3.1	0.00	0.00
1/8/2024	Begin drafting 3d report draft	1.7	395.00	671.50
1/9/2024	Finish drafting 3d report (.8); EML to leadership team for review (.1)	0.9	395.00	355.50
1/11/2024	Update call CRO re current dynamics and record challenges; report; upcoming hearing	0.2	395.00	79.00
1/12/2024	Prepare 3d Mo Fee (Nov fees) with associated documents (1.3); call with Debtor counsel re report, hearing, record topic (.2); research follow up and record resources to Debtor counsel (.3); final edits to 3d report and file (.2)	2	395.00	790.00
1/12/2024	docket monitoring, pleading review relative to role, document/notice list updates as needed - DE 627 (.1); DE 630, 633, 635 (.2); Prepare Dec Exhib B	0.3	395.00	118.50
1/13/2024		0.3	395.00	118.50

Total
Payments/Credits
Balance Due



Pivot Health Law, LLC

P.O. Box 69734
Oro Valley, AZ 85737

Invoice

Invoice #: 1305
Invoice Date: 2/6/2024

Bill To:

Mercy Hospital, Iowa City, Iowa
ND IA Case No. 23-00623 (JA)
File #15224

Period: January 1 - 31, 2024

Date	Description	Hours/Qty	Rate	Amount
1/16/2024	fee analysis and projection through end of case as requested by TK team (.2); pro hac review and document/EML updates re DE 651 (.1); follow up Court re NOBD re DE 641 and correction (.3 NC)	0.3	395.00	118.50
1/17/2024	docket monitoring, pleading review, calendar and document updates consistent with role - DE 659	0.1	395.00	39.50
1/18/2024	Call with Debtor counsel re EHR status and hearing (.2); EML to DIA team re hearing and possible need to attend and DE review 667-669 (.2)	0.4	395.00	158.00
1/22/2024	Attend hearing re various topics - my concern the EHR (1.1 total - discount)	0.6	395.00	237.00
1/22/2024	TXT follow up TK and debtor counsel re hrg (.1);	0.1	395.00	39.50
1/31/2024	Confirm sale closure with TK finance leadership	0.1	395.00	39.50
	Professional Fee Subtotal			7,860.50
1/3/2024	MERCY SV3 AIRFARE (Alt return flight)		351.10	351.10
1/3/2024	MERCY SV3 HOTEL (Hampton Inn)		136.23	136.23
1/3/2024	MERCY SV3 MEALS (McDs)		7.19	7.19
1/3/2024	MERCY SV3 MEALS (Maggies Farm)		30.86	30.86
1/4/2024	MERCY SV3 HOTEL (Hilton Garden Inn)		131.11	131.11
1/4/2024	MERCY SV3 MEALS (Blue Bird)		21.25	21.25
1/5/2024	MERCY SV3 AIRFARE (Refund non-used flight)		-261.90	-261.90
1/5/2024	MERCY SV3 CAR RENTAL		160.16	160.16
1/5/2024	MERCY SV3 CAR RENTAL (Fuel)		7.94	7.94
1/5/2024	MERCY SV3 PARKING FEES/TOLLS (PHX Airport)		42.00	42.00
1/5/2024	MERCY SV3 MEALS (Java House CID)		14.70	14.70
	Total Reimbursable Expenses			640.64

Total \$8,501.14

Payments/Credits \$0.00

Balance Due \$8,501.14